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|                                   |   |                |
|-----------------------------------|---|----------------|
| In re Application of              | : |                |
| Erich ARMBRUSTER                  | : | DECISION ON    |
| Application No.: 09/868,941       | : |                |
| PCT No.: PCT/EP00/00240           | : |                |
| Int. Filing Date: 13 January 2000 | : |                |
| Priority Date: 14 January 1999    | : | PETITION UNDER |
| Attorney Docket No.: L.P. 1825    | : |                |
| For: PROCESS FOR PREPARING 1-     | : |                |
| (6-METHYLPYRIDIN-3-YL)-2...       | : |                |
| ETHANONE                          | : | 37 CFR 1.181   |

This decision is in response to the "Petition Under Rule 181/182 To Accept As True Copies Of Documents Filed By Certificate Of Mailing (Rule 8)" filed 09 September 2003, requesting acceptance of a copy of the Combined Declaration purportedly filed in the USPTO on 01 February 2002. Applicants have submitted, inter alia, a copy of the 01 February 2002 PTO stamped itemized postcard receipt. The itemized postcard lists, inter alia, the following item: six executed declaration.

### **BACKGROUND**

On 16 July 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1), and a copy of the international application. Applicant, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(4) because no executed Declaration or Oath was provided with the transmittal letter.

On 14 August 2001, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PUT/DO/EO/905) which informed applicant, inter alia, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date" must be submitted within one month from its 14 August 2001 date of mailing or by 31 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application. In addition, the surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e))

**BEST AVAILABLE COPY**

On 09 September 2003 submitted this petition indicating that the response to the Notification of Missing Requirements was timely and that the copies submitted with this petition are true copies of the six executed declarations filed by the certificate of mailing and received at the Office on 01 February 2002.

### **DISCUSSION**

Applicant's present petition accompanied by a copy of the following documents, filed purportedly with the PTO as indicated in the stamped postcard:

- (1) six executed declarations (one for inventor)
- (2) copy of notification of missing parts
- (3) check of amount of \$130

The postcard lists the above items and bears a USPTO date of stamp as 01 February 2002.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard is accepted as *prima facie* that a Combined Declaration consisting of six executed declarations was deposited with the U.S. Patent and Trademark Office on 01 February 2001.

Accordingly, the date of receipt for the Combined Declaration is 01 February 2001 and each Declaration is complete since each indicates all of the inventors. Thus, the Combine Declaration complies with 37 CFR 1.63

However, upon review of the file the second submitted and corrected translation of the international application into English as required under 35 USC 371 (c)(2) was not found in the file. Applicant will need to submit a new copy of the translation. In addition, the \$130.00 for the processing fee for an English translation thirty months from the priority date has not been provided.

### **DECISION**

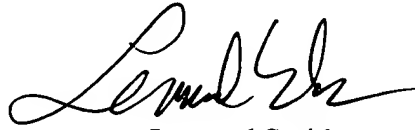
The petition under 37 CFR 1.181 is **GRANTED**.

Applicant is required to provide a copy of the English translation and the processing fee within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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